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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,085	11/29/2004	Ralph Reiche	2002P04430WOUS	9655
7590 11/01/2006			EXAMINER	
Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830			TUROCY, DAVID P	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

C

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/516,085	Applicant(s) REICHE ET AL.	
	Examiner David Turocy	Art Unit 1762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 28-47.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Detailed Action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: The amendments to the specification include limitations that were not present at the time of the final rejection and therefore require further search and/or consideration.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/19/2006 have been fully considered but they are not persuasive.

The applicants have argued against the 35 USC 112 1st paragraph rejection, over the claim language of "both the degraded and the non-degraded regions exhibit a more uniform reactivity". The applicants provide support, by showing evidence that the specification clearly discloses both region are uniformly removed in the acid bath. This might be the case, however the language of the claim does not support that both regions have a uniform reactivity to any and all reactants, only that the two portions are uniformly removed in the acid bath. The examiner cannot determine, from the support provided by the applicant and the other evidence of record, a nexus between the reactivity and being uniformly removed. Therefore the examiner maintains the 35 USC 112 accordingly.

The applicants have supplied the PCT English translation to overcome 35 USC 102(a) rejection over WO 03/029521 by Czech et al, however, WO 03/029521 was published on 4/10/2003, and the PCT of the instant application was filed after 4/10/2003 and therefore to overcome the art rejection, the applicants must provide a english translation of the foreign priority papers of EP 02011965.7. Therefore, the rejection of the claims over WO 03/029521 by Czech et al has been maintained accordingly.

The applicants have argued against the combination of Czech '668 in view of Draghi and further in view of Argyriades, stating Argyriades discloses forming a

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oxidation resistance coating and Czech '668 in view of Draghi discloses a diffusion coating for removal of layer. While the examiner does agree Argyriades discloses a diffusion coating for refractory metals, such as nickel and cobalt, Argyriades discloses cobalt is known and suitable to be combined with aluminum and co-diffused into cobalt, nickel and chromium and Czech '668 in view of Draghi discloses adding an amount of other elements into the diffusion coating of aluminum at column 6, lines 5-20, by co-diffusion and therefore one would reasonably expect success in co diffusing aluminum and cobalt because Argyriades discloses that such is known and suitable in the art to provide a diffusion coating.

All other arguments are considered moot because they are directed to the amendments that have not been entered for the reasons set forth.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Turocy whose telephone number is (571) 272-2940. The examiner can normally be reached on Monday-Friday 8:30-6:00, No 2nd Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David Turocy
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TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER